

REMARKS

Claims 1-9, 11, 12 and 15-44 are pending in this application. Applicants gratefully acknowledge the withdrawal of previous rejections of claims 1-13, 15-39 and 42-44 under 35 U.S.C. § 112, first and second paragraphs. The Office also suggested that claims 40 and 41 be withdrawn from consideration as drawn to non-elected inventions. Applicants have not canceled claims 40 and 41, and respectfully request reconsideration of the restriction.

Two criteria must be met for a proper restriction requirement. First, the inventions must be independent or distinct. Second, there must be a serious burden on the Examiner if restriction is required. MPEP 803. Applicants respectfully submit that neither of these requirements is met.

Specifically, claims 40 and 41 depend from claim 39, and their patentability does not depend on the presence of the additional therapeutic agents. Furthermore, because claims 40 and 41 depend from claim 39, these claims are not distinct from claim 39. Finally, because claim 39 has already been examined, there is no serious burden on the Examiner to examine dependent claims 40 and 41. Thus, Applicants respectfully request that these claims be examined in this application.

Claim Rejections Under 35 U.S.C. § 112, first paragraph

Claims 42-44 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly being non-enabling. Applicants gratefully acknowledge the Examiner's statements that the specification is enabling for many of the diseases recited. However, the Examiner states that the specification allegedly does not provide enablement for the treatment of Alzheimer's disease and restenosis. (Office Action, page 2). To expedite prosecution without acquiescing to the Examiner's arguments, Applicants have deleted these indications, obviating the basis for this rejection. Applicants therefore, respectfully request that this rejection be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, second paragraph

Claims 1-9, 11-12, 15-39 and 42-44 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Each rejection is addressed below.

In claim 1, the Examiner rejected the phrase “fused ring” as allegedly being indefinite. Although the term “fused ring” is understood by one of ordinary skill in the art as encompassing polynuclear aromatic hydrocarbons and heterocyclic aromatics, Applicants have amended claim 1 to further define “fused ring” as “a fused carbocyclic or heterocyclic aromatic ring” to expedite prosecution without acquiescing to the Examiner’s assertions. This amendment is supported in the specification at page 6, lines 11-20, and does not include new matter. In view of this amendment, Applicants respectfully request that this rejection be withdrawn.

In claim 44, the Examiner rejected the phrase “other arthritic conditions” as allegedly being indefinite. In claim 38, the Examiner also rejected the phrases “List-2A” “List-2B,” etc. as allegedly unclear. To expedite prosecution, Applicants have deleted these phrases in the claims, and respectfully request that these rejections be withdrawn.

Finally, in claim 44, the Examiner rejected the abbreviation “IBD” as allegedly unclear. Applicants have replaced the abbreviation “IBD” with the term “inflammatory bowel disease”. This amendment is supported in the specification at page 2, line 7, and does not include new matter. Thus, Applicants respectfully request that this rejection be withdrawn.

Conclusion

Again, Applicants appreciate the recognition that the pending claims are free of the art. The Examiner’s rejections under 35 U.S.C. § 112 first and second paragraphs, which involved mainly formal matters, have been addressed. Thus, the claims are now in a position for allowance. If the Office regards certain formalities to remain, Applicants respectfully request the Examiner to telephone the undersigned. It should be straightforward to resolve any further issues without the necessity for a formal Office Action.

In the unlikely event that the transmittal letter is separated from this document, and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief, including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 219002029300.

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Respectfully submitted,

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